

MINUTES

CASE NUMBER: CIVIL NO. 16-00448LEK-RT

CASE NAME: Craig Connelly, individually and on behalf of all others similarly situated , et al. Vs. Ekimoto & Morris, LLLC a Hawai'i limited liability law company, as individual entities, et al.

ATTYS FOR PLA:

ATTYS FOR DEFT:

INTERPRETER:

JUDGE: Leslie E. Kobayashi

REPORTER:

DATE: 01/18/2019

TIME:

COURT ACTION: EO: COURT'S INCLINATIONS REGARDING PENDING MATTERS IN THIS CASE

I. Class Certification

Before the Court are: Defendant Ekimoto & Morris, LLLC's ("E&M") First Amended Motion to Deny Class Certification ("Motion"), filed May 22, 2018; and Defendant Association of Apartment Owners of Ko Olina Kai Golf Estates and Villa's ("Ko Olina AAOO") joinder in the Motion ("Joinder"), filed August 1, 2018. [Dkt. nos. 163, 192.] The Court finds these matters suitable for disposition without a hearing pursuant to Local Rule 7.2(d).

On January 17, 2019, this Court filed an Order Granting Motion to Deny Class Certification and Joinder Therein and Denying Motion for Class Certification in the case involving the claims that were severed from the instant case on November 3, 2017, Brown v. Porter McGuire Kiakona & Chow, LLP, et al., CV 17-005544 LEK-RT ("Brown 1/17/19 Order"). [Dkt. no. 106 (severance order); Brown, dkt. no. 123 (Brown 1/17/19 Order).] This Court hereby informs the parties that it is inclined to grant E&M's Motion and the Ko Olina AAOO's Joinder, based on the analysis set forth in the Brown 1/17/19 Order.

Plaintiffs Craig Connelly and Kristine Connelly ("the Connelllys") are ORDERED to file a memorandum setting forth any reason why this Court should rule differently in the instant case than this Court ruled in the Brown 1/17/19 Order. The Connelllys'

memorandum must be filed by **February 1, 2019**. Any defendant may file a response to the Connelys' memorandum by **February 8, 2019**. The Court will take the Motion and the Joinder under advisement thereafter.

II. Magistrate Appeal

Also before this Court is the Connelys' Appeal to the District Court from the Magistrate Judge's Orders [ECF Nos. 169, 175] Granting in Part and Denying in Part Plaintiffs' Motion to Amend the Complaint and Denying Reconsideration ("Appeal"), filed July 3, 2018. [Dkt. no. 180.] The Appeal has been fully briefed. [E&M's mem. in opp., filed 7/17/18 (dkt. no. 184); Ko Olina AOAO's joinder in the mem. in opp., filed 7/17/18 (dkt. no. 185); Connelys' reply, filed 7/31/18 (dkt. no. 189).] The Court will consider the Appeal as a nonhearing matter pursuant to Local Rule 7.2(e).

On July 5, 2018, this Court issued the Order Granting Defendant Ekimoto & Morris, LLLC's Motion to Dismiss Third Amended Class Action Complaint Filed May 18, 2018 ("7/5/18 Order"). [Dkt. no. 182.] If this Court rules on the Motion and Joinder as set forth in the above inclination, this Court will: 1) vacate the magistrate judge's orders that are the subject of the Appeal; [dkt. no. 169, 175;] 2) remand the matter to the magistrate judge to reconsider the issue of whether the Connelys should be allowed to amend the Third Amended Class Action Complaint, [filed 5/18/18 (dkt. no. 162),] in light of the 7/5/18 Order and the denial of class certification; and 3) deny the Connelys' Appeal as moot.

This Court will therefore reserve ruling on the Appeal until it has ruled on the Motion and Joinder.

IT IS SO ORDERED.

Submitted by: Warren N. Nakamura, Courtroom Manager